

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FT. WORTH DIVISION**

ELAINE CHAO, SECRETARY OF LABOR,)
)
Plaintiff,)
)
v.)
)
ALLIED PILOTS ASSOCIATION,)
)
Defendant.)
)

**RESPONSE IN OPPOSITION TO PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

Pursuant to Local Rule 56.4, Defendant Allied Pilots Association (“APA”) respectfully submits this response in opposition to Plaintiff Department of Labor’s (“DOL”) Motion for Summary Judgment.

As required by this Court, and in accordance with Local Rule 56.4(b) the legal and factual grounds on which APA relies in opposition, to the DOL’s motion, are set forth in the accompanying “Defendant Allied Pilots Association’s Brief in Opposition to Plaintiff’s Motion for Summary Judgment.” In sum, the DOL’s motion for summary judgment should be denied in that:

1. The DOL has failed to meet its burden of establishing by a preponderance of evidence that the APA violated the Labor Management Reporting and Disclosure Act (“LMRDA”), 29 U.S.C. §§ 401, et seq., in its conduct of the 2004 APA National Officer election.

2. The DOL has failed to meet its burden of establishing that the APA failed to take "reasonable steps"/"reasonable precautions" to assure the secrecy of the ballot in that election.

3. There are numerous disputes of material fact -- many of which material facts the DOL fails to reference in its motion -- on the determinative question of whether the APA took "reasonable steps"/"reasonable precautions" to assure the secrecy of the ballot in the election, thus precluding summary disposition in this case.

4. The undisputed material facts establish that the APA did, in fact, take all "reasonable steps"/"reasonable precautions" to assure ballot secrecy in the election; and, as such, there was no violation of ballot secrecy in the election at issue.

On the grounds set out and discussed in detail in the APA's accompanying brief, the DOL's motion for summary judgment should be denied and this case set for trial on the merits.

Respectfully submitted,

s/ Sanford R. Denison
SANFORD R. DENISON
Texas Bar No. 05655560
Baab & Denison, LLP
2777 N. Stemmons Freeway, Suite 1608
Dallas, Texas 75207
(214) 637-0750; (214) 637-0730 Fax

EDGAR N. JAMES (admitted *pro hac vice*)
D.C. Bar No. 333013
STEVEN K. HOFFMAN (admitted *pro hac vice*)
D.C. Bar No. 384696
DAVID P. DEAN (admitted *pro hac vice*)
D.C. Bar No. 437030
James & Hoffman, P.C.
1101 17th Street, N.W., Suite 510
Washington, D.C. 20036
(202) 496-0500; (202) 496-0555 Fax

Dated: June 14, 2006

Counsel for Defendant Allied Pilots Association

CERTIFICATE OF SERVICE

I hereby certify that on the 14TH day of June, 2006 I electronically filed the forgoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means:

TAMI C. PARKER
Assistant United States Attorney
Burnett Plaza, Suite 1700
801 Cherry Street, Unit 4
Fort Worth, Texas 76102

s/ Sanford R. Denison
SANFORD R. DENISON